



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2900 FAX (603) 271-2456



Harcros Chemicals, Inc.
5200 Speaker Road
Kansas City, Kansas 66106

Attention: Robert W. Chaney, Manager
of Regulatory Affairs

RE: Harcros Chemicals, Inc.
411 Daniel Webster Highway
Merrimack, NH
EPA ID No. NHD 000471771

NOTICE OF COMPLIANCE
for
IMMINENT HAZARD
ADMINISTRATIVE ORDER
No. WMD 01-13
January 24, 2002

As a result of an inspection conducted on August 9, 2001, the New Hampshire Department of Environmental Services, Waste Management Division (DES) issued Imminent Hazard Administrative Order No. WMD 01-13 ("the Order") to Harcros Chemicals, Inc. (Harcros). Based upon a review of Harcros's submittal and subsequent site visit by DES personnel on November 8, 2001, DES has determined that Harcros has complied with the Order. Based on this compliance, DES does hereby issue this Notice of Compliance for the Order.

This Notice of Compliance does not release Harcros from liability for penalties to which it may be subject for the violations identified in the Order.

If you have questions regarding this Notice of Compliance, please contact Kenneth Marschner, Administrator, Waste Management Programs or John Duclos, Supervisor, Hazardous Waste Compliance Section at 271-2942. Thank you for your cooperation.

COPY

Philip J. O'Brien, Ph.D., Director
Waste Management Division
Department of Environmental Services

COPY

George Dana Bisbee
Assistant Commissioner
Department of Environmental Services

cc: DB/RCRA/Compliance

Public Information Coordinator, DES

Jay Minkarah, Esq., Community Development Director, Town of Merrimack, New Hampshire

David Tinsch, Harcros Chemicals, Inc., Nashua, NH

Dave Bowen, DES

Harcros Chemicals Inc

5200 Speaker Rd.

P.O. Box 2930, 66110-2930

Kansas City, KS 66106-1095

Tel 913/321-3131

TELEX 477266 FAX 913/621-7718



HARCROS

February 5, 2002

State of New Hampshire
Department of Environmental Services
6 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

RE: Notice of Compliance for Imminent Hazard Administrative Order
No. WMD 01-13

To Whom It May Concern:

On October 22, 2001, Harcros Chemicals Inc. was purchased from its parent company Elementis, LLC. In accordance with the Asset Purchase Agreement, the Merrimack Site, at 441 Daniel Webster Highway, was **not** part of the purchase and was retained by Elementis Chemicals Inc., Hightstown, New Jersey. Future communications concerning this site should be directed to the contact person there:

Glenn Cavanaugh
Wyckoffs Mill Road
P.O. Box 700
Hightstown, NJ 08520

Thank you for your assistance with matter,

Sincerely,

Robert W. Chaney
V.P., Regulatory Affairs

Cc: Glenn Cavanaugh, Elementis

rec'd by GCR

cc: J. Daniels ✓ 5/17/02
AEB



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3644 FAX (603) 271-2181



August 15, 2001

DELIVERED IN HAND

Mr. Robert Chaney, Manager of Regulatory Affairs
Harcros Chemicals, Inc.
5200 Speaker Road
Kansas City, Kansas 66106

**Re: MERRIMACK – Harcros Chemicals, Inc., DES Site # 198901022,
EPA ID No. NHD 000471771**

Dear Mr. Chaney:

Enclosed is Imminent Hazard Administrative Order WMD No. 01-13 issued this date to Harcros Chemicals, Inc. as a result of an inspection conducted on August 9, 2001

Should you have any questions regarding this Order, please contact David Bowen, Hydrogeologist, John J. Duclos, Supervisor, Hazardous Waste Compliance Section or the undersigned at 271-2942.

Sincerely,

COPY
Kenneth W. Marschner
Kenneth W. Marschner, Administrator
Waste Management Programs
Waste Management Division

Delivered by: **COPY** *David Bowen* Date: 8/15/01
Received by: **COPY** *David Tinsch* Date: 8/15/01

KWM/JJD/DCB/JR

cc: DB/RCRA/ORDER
Gretchen Rule, Enforcement Coordinator, DES
Public Information Coordinator, DES
Jay Minkarah, Esq., Community Development Director, City of Merrimack, New Hampshire
David Tinsch, Harcros Chemicals, Inc., Nashua, NH



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

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(603) 271-3644 FAX (603) 271-2181



Harcros Chemicals Inc.
5200 Speaker Road
Kansas City, Kansas 66106

RE: Harcros Chemicals Inc.
411 Daniel Webster Highway
Merrimack, New Hampshire 03045

**IMMINENT HAZARD
ADMINISTRATIVE ORDER
WMD NO. 01-13
August 15, 2001**

A. INTRODUCTION

This Imminent Hazard Administrative Order is issued by the Department of Environmental Services, Waste Management Division to Harcros Chemicals Inc., pursuant to RSA 147-A:13. This Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 6 Hazen Drive, Concord, New Hampshire 03301.
2. Harcros Chemicals Inc. ("Harcros") is a Delaware corporation that registered with the New Hampshire Secretary of State's Office on January 10, 1989. Harcros has a mailing address of 5200 Speaker Road, Kansas City, Kansas 66106.

C. STATEMENT OF FACTS AND LAW

1. RSA 147-A authorizes DES to regulate the management, including storage, treatment, containerization, transportation, and disposal of hazardous wastes. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted New Hampshire Administrative Rules Env-Wm 100-1000 ("Hazardous Waste Rules") to implement this program.
2. Harcros is a hazardous waste generator that notified the United States Environmental Protection Agency (EPA) of its activities on August 18, 1980. EPA Identification Number NHD 000471771 was assigned to Harcros' site located at the 411 Daniel Webster Highway, Merrimack, NH (the "Facility").
3. Harcros operated the Facility until it closed in 1998. Harcros continues to own the Facility.
4. On August 6, 2001, DES personnel contacted Robert Chaney, Harcros' Manager of Regulatory Affairs. DES informed Mr. Chaney that an inspection of the Facility was planned for August 9, 2001. Mr. Chaney stated that Mr. David Tinsch, who works at Harcros' facility in Nashua, NH, would be the contact for the Facility and that he would call him and inform him of

the visit. On August 9, 2001, DES personnel called Mr. Tinsch and left a message that DES would be at the Facility that day.

5. On August 9, 2001, DES personnel, accompanied by Town of Merrimack personnel, conducted an inspection ("the Inspection") of the Facility. The purpose of the Inspection was to determine Harcros' compliance status relative to RSA 147-A and the Hazardous Waste Rules Env-Wm 100-1000.

6. At the time of the Inspection, DES documented that the Facility had been abandoned. The buildings and grounds were not secure, the doors were not locked and many windows were broken. Access to the site was not restricted, there was no fence surrounding the site and there were no signs to inform trespassers of the dangers posed by the site.

7. Joe Herlihy, a lessee of one of the buildings at the site, watches the Facility for Harcros. According to Mr. Herlihy, he regularly observes trespassers at the Facility and requests that they leave. Mr. Herlihy described one instance where he observed a homeless man inside one of the buildings. Mr. Herlihy indicated the gate leading into the Facility is not secure and can be easily opened.

8. DES personnel documented evidence of trespassers inside the buildings including: cigarette butts, empty soda cans, and graffiti.

9. On August 9, 2001, DES personnel inventoried the following abandoned materials and wastes at the Facility:

Building 1 - 1st floor

One (1) one-liter container labeled "n methyl pyrrolidone"
Numerous chemical containers packaged for shipment
Two (2) 55-gallon poly containers labeled "corrosive"

Building 1 - Lab Storage Area

Numerous (25+ containers) lab chemicals

Building 1 - Front Office

Two (2) 1-liter containers labeled "Hazardous Waste"
One (1) 1-gallon poly bag labeled "Corrosive" and "Caustic Soda"

Building 1 - Outside Loading Dock

One poly tank (200+ gallons) labeled as a sodium hydroxide and formaldehyde solution, with a National Fire Protection Association (NFPA) Hazard Classification of 3 for Health (extreme danger), was located on the outside loading dock. The warning on the label indicated this is "corrosive." This container was approximately ¾ full at the time of the inspection.

Building 1 - Basement

One (1) 5-gallon container labeled "Acetic Acid." The basement contained a strong smell of acetic acid.

Building 1 - 2nd Floor

One (1) 55-gallon container, unlabeled, chemical residue on container and floor.

Building 3 - Inside Caustic Aboveground Storage Tank (AST) Storage Area

Two (2) 20,000+ gallon ASTs. Crystalline caustic on the discharge pipe for the AST was observed. Using a heat sensing infrared thermometer, the temperature differential of the tank indicated that one of the tanks had approximately ¼ volume. These tanks were labeled "Caustic" with an NFPA Hazard Classification of 3 for Health (extreme danger). In addition, one of the tanks appeared to be wet and weeping at the bottom weld.

Building 5 - Outside Corrosive AST Storage Area

Two (2) 20,000+ gallon ASTs. These were labeled "corrosive" with the NFPA Hazard Classification of 3 for Health (extreme danger). One of the tank gauges indicated that the tank still contained product.

Building 4 - Outside Storage

One (1) 55-gallon container, unlabeled

Building 5 - Outside Storage

One (1) 55-gallon poly container, unlabeled

Building 6 - Outside Storage

One (1) 35-gallon poly container, labeled "35 % Hydrogen Peroxide," "Oxidizer"

Southwest Portion of Property

One (1) 5-gallon container, open, overflowing

Two (2) 55-gallon poly containers, unlabeled

North Portion of Property

Two (2) 55-gallon containers, unlabeled

10. Due to the poor structural integrity of the buildings on the site, a complete inventory was impossible to obtain during the Inspection.

11. The 5-gallon acetic acid container and the acetic acid vapors identified in the basement of Building 1 poses a threat to human health due to the toxic, corrosive and flammable hazard of this acid.

12. The sodium hydroxide stored in the ASTs in Building 3 and the numerous other containers on the property poses a contact threat to human health and the environment due to the extreme corrosive hazard of this chemical.
13. The 35-gallon container of 35% hydrogen peroxide poses a threat to human health due to the ignitable and explosive hazard posed by of this strong oxidizer stored outside, directly in the sun and near organic material.
14. Harcros, as the owner and operator of the Facility where the waste is located, has liability under RSA 147-A:9. By abandoning this waste, Harcros has created an imminent threat to human health and the environment pursuant to RSA 147-A:13.
15. RSA 147-A:9 states that any generator or operator who causes or suffers the disposal of hazardous waste in violation of RSA 147-A shall be strictly liable for costs directly or indirectly resulting from the violation relating to:
 - (a) Containment of hazardous wastes;
 - (b) Necessary cleanup and restoration of the site and the surrounding environment; and
 - (c) Removal of the hazardous waste.

D. DETERMINATIONS AND NOTICE OF VIOLATION

1. Harcros through the handling and storage of the hazardous waste described in item C.9 has created an imminent hazard pursuant to RSA 147-A:13.
2. Harcros is liable under RSA 147-A:9 for the costs resulting from the containment of hazardous waste, cleanup and restoration of the site and the surrounding environment and the removal and disposal of the hazardous waste.

E. ORDER

Based on the above findings, DES in accordance with RSA 147-A:13 Imminent Hazard, hereby orders Harcros as follows:

1. Within 24 hours of receipt of this Order, and using personnel trained in the management of hazardous waste, segregate all hazardous wastes located at the Facility, including that identified in item C.9. Store the waste in accordance with Part Env-Wm 506 Environmental and Health Requirements and Env-Wm 509.02(a)(6), which references 40 CFR 265 Subpart I, Use and Management of Containers. All hazardous waste in tanks must be stored in accordance with Env-Wm 509.02(a)(7), which referenced 40 CFR 265 Subpart J, Tanks.
2. Within thirty (30) calendar days of this Order, ensure that all hazardous waste at the Facility, including that identified in item C. 9 is delivered to an authorized facility as specified in

Env-Wm 511.01 and Env-Wm 507.03 via a New Hampshire authorized hazardous waste transporter. Harcros may reuse materials at its business upon approval by DES. During this thirty (30) day period, Harcros must conduct and document daily inspections of the hazardous waste containers and tanks, as per Env-Wm 509.02(a)(1), which references 40 CFR 265.15 - General Inspection Requirements.

3. Submit two written status reports to DES within five (5) and thirty-five (35) calendar days of this Order, certifying that corrective measures have been implemented. Include in the report supporting documentation describing those measures taken to eliminate the hazard. DES personnel will return to evaluate the corrective actions taken by Harcros.

Please address correspondence to:


Kenneth W. Marschner, Administrator
DES/WMD
6 Hazen Drive
Concord, New Hampshire 03301


F. APPEAL

Harcros as directed must immediately comply with this Imminent Hazard Administrative Order, in accordance with RSA 147-A:13, but may appeal the Order to the Waste Management Council within thirty (30) days of receipt of this Order in accordance with Env-WMC 200.

Please note that RSA Ch. 147-A provides for civil and criminal penalties and administrative fines for violations of the statute or any rule adopted by DES relative to the statute. RSA 147-A:17 provides for civil forfeitures of up to \$50,000.00 for each day of a continuing violation, in addition to enforcement by injunctive relief.

DES personnel may reinspect the Facility at a later date to determine whether the Facility has come into, and is maintaining, full compliance with the applicable rules.


COPY
Philip J. O'Brien, Ph.D., Director
Waste Management Division
Department of Environmental Services


COPY
George Dana Bisbee
Assistant Commissioner
Department of Environmental Services

KWM/CB/JJD/DCB/JR

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